

## Florence

Moorehead + Muskie Commissions would make matters worse — The Executive would capture them — as with regulatory agencies in general.

Law: <sup>(1)</sup> "The Pres is authorized to designate info as requiring protection in the interests of national defense." <sup>(2)</sup> "He is authorized to establish administrative controls to protect that info within and by the Executive branch" [not contractors — he lets it outside Exe at his risk]. <sup>(3)</sup> Congress could provide criteria for ~~the~~ restricting dissemination.

§ No criminal sanctions; use Espionage Act, redrafted to assure that "intent" is required, to cover criminal sanctions.

(4) Time-limit for holding info in that system; normally, 3 years at most — with authorization for holding certain Congressionally-authorized info up to 12 years (intelligence ops and cryptology. AEA would still apply for RD).

Head of agency personally could specify items to be held for 8 years.

"Admin law can preempt Pres directions."

(5) [How monitor, appeal?] Basis for public to appeal to courts, to enjoin or decide. And Committee that sponsored legislation could receive appeals + decisions.



Attitude of people in the system: Class. is the attraction <sup>(open, uncontrolled)</sup> to publication (i.e. by just anyone — "those guys" anywhere, anytime); desire to censor or manage news is a sufficient reason, <sup>& the most common one, to classify.</sup>

|| Kinable: "If it's not classified, publish it. [Good]"

But: "If you don't want it published, classify it." (or "If... you'd better classify it.")

(No hint: "You must not classify it — no matter how much you don't want to see this published — unless it meets certain criteria...")

("I want to make the work for it — spend — not give the on a silver platter...")

Comment by witnesses at recent trial of USAF Sgt. Spj:

|| "This is the kind of stuff we don't get from Russia!" "I wish we got this from Russia..."

EITHER THEY ADMIRE THE RUSSIAN SYSTEM OF SECRECY OR FEEL WE 'MUST' IMITATE IT, ADOPT IT AS THE ~~PARA~~ STANDARD, BECAUSE OF CONFLICT.

(What is meaning of categories of "protected" info:

- (1) Limitation of access.
  - (2) Assurance that unauthorized persons will not gain access. (safes, guards, areas, ID, ...)
  - (3) Assurance that "publication" (to press, Congress, "unauthorized people") will be controlled by, or only by, Pres and Pres appointees ("leaks"; so he can control timing, manner, reprints, ... context, ... news-management)
- Russian gov is the model of "perfect secrecy." (Or, <sup>"Establishment"</sup> prison). Also, an elite corps, with one criterion of continued membership being adherence to secrecy.



Congress now has a choice as to how to handle "class." material that comes to them: whether to release it, ask GPE to release, or restrict.

[How many members of CFR have not had a clearance ?!]

How many people in US have had clearances?

Including military, gov, contract:

~ 30 million

At least 5 million have current, active clearance

(Agency check is reasonable; TS process is a waste, and...)

(A Very Large Conspiracy.)

WF: "The prospect that a promotion might be delayed by a day is enough to keep a person from speaking freely; free of reprisals, promotion, loss of job, even prison

Fear that it will get back to boss that he talked outside of channels — regardless of content...

[Voight: "Fear of humiliation...": What



WF

Moreover, "infection" of class. system spills over onto all official communication.

Censorship (OWI) in WWII affected only written + radio communication to enemy territory — It didn't affect verbal comm. between Americans.

Analogy is closer to Sedition laws...

So test of classification is not just:

(1) What you don't <sup>want</sup> a foreign gov to know  
(alleged purpose)

or even just

(2) "What you don't want to see in media"  
(like censorship — closer to actual practice)

but (3) What you don't want American public, Congress, courts or other Exe agencies (or perhaps superior, up to Pres, or subordinates) to know or discuss.

Test of class: "What is not to be spoken freely — to be the subject of free speech."

(It may be widely disseminated — but controlled.)  
+ Restricted  
Area of class = area of Controlled Speech (vs. Free Speech)  
Speech Control



Basis of American self-gov —

WF Once statute limits Pres and provides criteria, courts must the rule.

"Shouldn't there be secrets?"

WF "No" ["not determined in advance"] ~~assess~~  
(where a  
"Report")

Does  
"No" a gov official have the right to try to  
keep certain information secret?"

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Q: Should every official have the right to  
decide for himself what should be given out?  
(if info available to him)?

A: Gov needs an orderly procedure for release;  
his right confronts boss's right to relieve him  
of his access & job. (He is free, as a citizen,  
of criminal sanction, for release — unless Congress  
passes a law — which, to be Const, must meet  
strict criteria...



"The Pres should have the right to make  
coop. in the orderly release of info a condition  
of employment. (Congress should not provide  
criminal sanctions...) But even this can be and  
is abused; Congress should provide admin. law  
setting out criteria for control of info

Wi- Exempts have made both RO and cryptographic  
laws absolute or obsolescent...

"Codes" are not what they used to be...

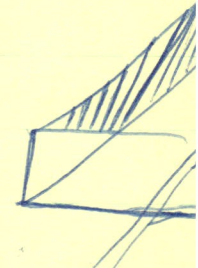
[Hyp: Crypto security is "needed" to allow us  
to listen to 3d-rate powers, not to protect  
our own comm.]

// "Why did you think you were going to jail?"

"Because David Nicsons are a dime a dozen."

Prosecutors who will stretch existing laws  
to cover the acts of a man who has  
embarrassed the Exe."

[Why is Tony only charged with 35 years?]





Why did most Americans assume there is  
a law protecting "secrets"?

\* Maddox

713-271-4840



IVA2

i-ii

1st P good

note DE comments, underlining (mm)

Rev. of Rule II

Ex: presence, Phase A; inadequacy of measures

ii

DE comment

(3) S map — <sup>VM</sup> areas in 1951 are the same as today!

9. French <sup>presence</sup> ~~not~~ necessary to Bao Dai  
US aid necessary to keep French presence

[Omission of 10-19 is bad]

show 10. lack of mil. assurance; DPP

X 11. Eeking: French unpopular, and inadequate Phase A  
Rule II — to ~~use~~ US troops

12. Rule II — from military NSC, not just politics  
[A hint to our strategic interest — or to  
political concern.]

14. "

15. "Commit aggression (March 15, 1951): first action?

X 17. Phase A: prospects poor. DPP

X 18. French colonialism DPP Failure of leverage.

X 19. Lack of consideration of costs. questions remain around  
parallel to later patterns

[Hyp: Capitalizing on: Generation of peace  
to be secured by HAK's recent diplomacy  
China must jeopardized by PP beat,  
saved by assurance of prosecution



# IV-A-5 Origins of Insurgency

## Summary

good p. 1 reference to "most carefully guarded  
financial intelligence"

~~28~~

(X) shows p. 2 (which they omit, after 1

(X) p. 3 US vs. Geneva

good 21

X p. 22 (after this 21) criticism of GVN  
NLF program

X 23 VNT mission - elections  
in 55-56

(X) 24 (Jky cite!) Compan states that ~~the~~ that Hanoi  
good didn't start till early '59 with US White Papers  
of 1961, 1965.

good 28 SC proposes to admit both NV & SVN to UN  
Possible that Hanoi begins insurgency in SVN  
in 1958

great! 28-35 esp. 33-35 (description of USG, criticism  
of Dien, State vs. Defense)

great! Top 1: 20 US vs. Chinese Aid  
23: they show DRV buildup, but not p. 24, US aid to RVNAF

show 24

" 25- SEATO provision: consult

25-33 " & violations of Geneva

X p. 45 omitted: Paragraphs expectations of returning in 1956

GS-

p. 64 DRV use of Cambodia (they include)

Page 3 83-~~84~~ omitted: paragraphs (see above)

Page 11



IV-A-5

XXX

Feb 4

b. 1-10

Great!

(6-8)

Electrons, VM victory,

usage of electron device

X

21-29

X

43-44

(X)

they wait! 46-47 GVN lack of support!



1. Put in index: Quagmire Myth, Sept '70
2. RAND D's, 1969 ?!  
photo D, 1970 ?  
Draft 1961 volume ?!







<sup>Low</sup>  
C. Opening: See the trial memo.

>50%  
Heavy emphasis on "fact" part:

- transactions

- signatures

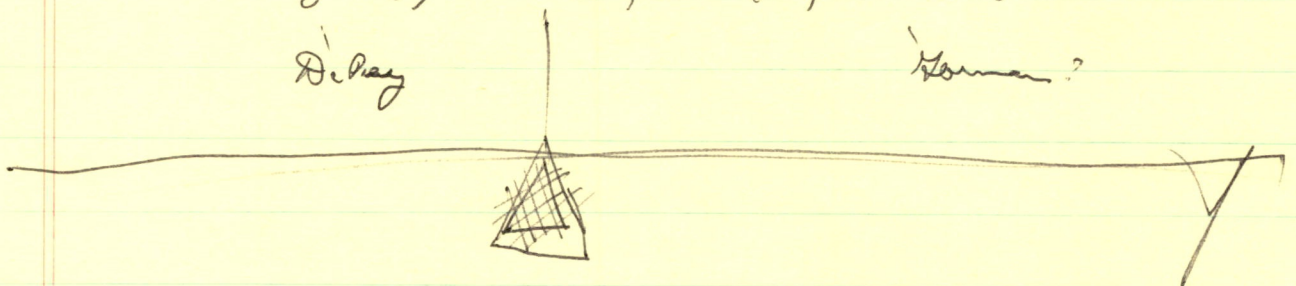
- Admissions: Witnesses (Doesn't seem to  
(Confront me in advance this case).  
cross-exam?)

3. National Defense: 3-4 witnesses

Big oil; State; intel; small

Diary

German?



Dismissal:

On theft: Judge was correct in not dismissing  
on its face; but now, should now.

Pros: "theft of info."

Strong

We: gov does not own info; it is not  
subject to theft.

May say: conversion is removing.

But - no intent to permanently deprive.

Strong

Cont 14: covers all 18, "failure to return"

We: violation of 5th (right be wider used  
against me; had <sup>others</sup> ~~off~~  
fingerprints on the copies

If they've called Kille & he says "Adm practice  
in ISA to classify ("TS") anything related on VN."



Norman — author of most dishonest volume  
in study  
DePuy: cloud of



B

How

About 100 slides of negs out of ISM, RAND  
Manual, all things I signed...

X

[ OE to go over

Florence to go over

Probably show with a

1. Fact witnesses.

Connect me with Tony, Linda, Thai,

-GS

-Carol? Jan?

2. Chain of transmittal of docs

- Fox, Roman (Pentagon vol)

E not RAND, unless they have to; best Henderson is  
good for us on facts

Archer wouldn't talk to Deale; my testify for pro.

Not Linda? Not clear why not!

-Moorestein — vols going in to registers.

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Read the witness files